N THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.9957 of 2007
Date of decision: 11.07. 2007

Dr. Priya Garg.

-----Petitioner.

Vs.

State of Punjab and Others.

-----Respondents.

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. Mahesh Gupta, Advocate
for the petitioner.

Mr. Suvir Sehgal, Addl. Advocate General, Punjab.
for respondents No.1 & 2.

Mr. Rajiv Atma Ram, Sr. Advocate
with Mr. Sunish Bindlish, Advocate
for respondent No.4.

Adarsh Kumar Goel, J.

C.W.P. No.9957 of 2007

This petition seeks a direction for consideration of the petitioner for MD/MS/PG Diploma of Dayanand Medical College, Ludhiana as per the merit/rank in the counseling to be held on 12.07.2007 and 13.07.2007 at Ludhiana on the ground that she has passed the MBBS course from the Govt. Medical College, Patiala, which is affiliated to the respondent No.3 and Dayanand Medical College is also affiliated to the same University and both these colleges are situated in the State of Punjab as per Clause 37 of the Prospectus.

Further direction is sought for fixing order of counseling between General Open candidates and candidates reserved by way of institutional preference, as seats against each speciality are limited.

Case of the petitioner is that she passed MBBS course from Government Medical College, Patiala and completed one year internship. The Punjab Government issued notification for admission for Post Graduate Medical Courses in medical colleges of Punjab. She appeared in the entrance test, of which, the result was declared on 26.4.2007.

A writ petition was filed in this Court by some candidates challenging Clause 37 of the Notification dated March 21, 2007, to the following effect:-

> "37. The candidates who have passed their graduate degree from Medical/Dental Colleges situated in the State of Punjab except Christian Medical College/Christian Dental College, Ludhiana, and have

qualified PGET 2007, shall be given additional 15% marks of the total marks obtained in the Post Graduate Entrance Test (PGET-2007)."

The writ petition was allowed vide judgment dated 24.5.2007 in the following terms:-

> "In view of facts mentioned above, clause 37 of the notification No.5/8/2007-3 HB3/1334, dated March 21, 2007 (Annexure P-1), as mentioned in the prospectus for PGET-2007 is quashed being contrary to the law laid down by the Hon'ble Supreme Court in ***Magan Mehrotra's case*** (supra) and also reiterated in ***Saurabh Chaudhary's case*** (supra) and being ultra vires to the mandate of Article 14 of the Constitution of India. However, keeping in view ratio of the judgments, referred to above, liberty is granted to respondents No.1 and 2 to reserve, by way of institutional preference, to the exclusion of the petitioners, 11 seats out of 21 seats available for general category candidates."

The respondent No.1, State of Punjab, issued a corrigendum on 27.06.2007 in accordance with the above judgment.

Grievance of the petitioner is that order of counseling between open candidates and candidates entitled to institutional preference, has not been fixed.

On notice being issued, Shri Suvir Sehgal, Additional Advocate General appears for the State of Punjab and Shri Rajiv

Atma Ram appears for respondent No.4, Daya Nand Medical College, Ludhiana. A copy of the proceedings of the meeting held on 2.7.2007, to decide the criteria for giving institutional preference as per notification dated 27.6.2007, has been produced. In the meeting, following decisions have been taken:-

> "1. For the State Medical Colleges, it has been decided that the seats for general category candidates will be filled first according to merit of the candidates and thereafter the seats reserved for 50% institutional preferences will be filled from amongst the candidates who passed from that State Medical/Dental College.
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> 2. Similarly for the Private Colleges, it has been decided that the seats for general category candidates will be filled first according to merit of the candidates and thereafter the seats reserved for 50% institutional preference will be filled from amongst the candidates who passed from the particular Private Medical/Dental Institution.
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> 3. The Punjab govt. also issued Corrigendum No.5/8/2007-3HB3/30899 dated 14.6.2007 vide which the NRI seats in Private colleges will be reserved to the extent of 15% instead of 7.5%. As such, the distribution of seats stand revised by the respective institutions which have already been sent to the University by the concerned Principals, as conveyed in this meeting."

Learned counsel for the State explains that seats for General category will be filled first according to merits of the

candidates and thereafter, seats reserved for 50% institutional preference will be filled in the manner indicated above.

In view of above, we are of the view that at this stage, no further direction is called for under Article 226 of the Constitution.

The petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

July 11, 2007 **(AJAI LAMBA)**
ashwani **JUDGE**